

Berry a criminal victim to give up property or property rights through acts of threat of violence and/or physical intimidation.

50. On Monday August 13, 2007, and at earlier times, Smith, and other under Baumann's direction as the Lenders' C&S's, Core-Mark's and Lenders' agents, used and/or attempt to use Plaintiff's reasonable fear of physical injury or economic harm in order to induce Mr. Berry to consent to give up his intellectual property. This conduct along with repeated and ongoing threats directed at Mr. Berry's customers actually or potentially obstruct, delay, or affect interstate or foreign commerce by preventing any competitor in the Hawaii Mainland USA ocean freight logistics market for food and restaurant supplies from competing with C&S that presently possesses the vast majority of the Hawaii market share.

WHEREFORE PLAINTIFF PRAYS FOR:

A. As to JP Morgan Chase Bank and Deutsche Bank, damages for infringement of the copyright from and after January 2000, to and including March 31, 2003 as provided by the Copyright Act without limitation actual damages and accounting for all gains and profits derived by each of these defendants through the willful infringement of Plaintiff's copyright or Plaintiff's right to statutory damages for willful infringement if elected;

B. As to JP Morgan Chase Bank and Deutsche Bank, for the period after

April 1, 2003 to no earlier than June 9, 2003, damages for infringement of the copyright as provided by the Copyright Act without limitation actual damages and accounting for all gains and profits derived by defendants through infringement of Plaintiff's copyright or Plaintiff's right to statutory damages is elected;

C. Damages to be determined at trial for the value of the benefit that the Lenders received with the expectation that Berry would receive payment for the unauthorized use of his work based on an implied promise;

D. Plaintiff reserves the right to elect statutory damages any time prior to entry of judgment;

E. Payment of the full costs of the action and reasonable attorney's fees at rates paid to the attorney for the opposing parties;

F. A temporary restraining order, preliminary and permanent injunction against all defendants and anyone with knowledge of the injunction to prohibit any further acts that assist, finance or otherwise facilitate the ongoing acts of infringement and threats of violence or intimidation regarding the Plaintiff and/or his works that are the subject of this action;

G. Treble damages against all defendants, including, but not limited to, GECC and C&S for all infringements after August 15, 2004 and continuing up to the date of this First Amended Complaint and an immediate injunction against the defendants, including GECC to prohibit the Defendants their agents, attorneys,

officers and directors from providing any further material support for C&S, Core-Mark or any other direct infringer of Berry works;

H. Should the Lenders persist in their support for criminal infringers, and for persons violating the Hobbs Act, Mr. Berry shall seek the imposition of a receiver or other Court appointed officer to take control of the defendants who continue to commit acts of willful infringement for financial gain or provide material support to infringers and direct other criminal act, as provided by law to require that they cease any material support for ongoing acts of willful infringement for financial gain;

I. Such other and further relief as may be just.

Dated: Honolulu, Hawaii, August 15, 2007.

/S/Timothy J. Hogan  
TIMOTHY J. HOGAN  
Attorney for Plaintiff WAYNE BERRY

DEMAND FOR JURY TRIAL

Plaintiff Wayne Berry hereby respectfully demands a trial by jury of all issues triable thereto.

Dated: Honolulu, Hawaii, August 15, 2007/

/S/Timothy J. Hogan  
TIMOTHY J. HOGAN  
Attorney for Plaintiff WAYNE BERRY



## Verify Document(s)

1:07-cv-00172-SOM-LEK Berry v. Deutsche Bank Trust Company Americas et al

Date	#	Docket Text
08/15/2007	62	AMENDED COMPLAINT <i>First Amended Complaint</i> against all defendants, filed by Wayne Berry. (Attachments: # (1) Red Line Copy of First Amended Complaint) (Hogan, Timothy)

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File size is 36871

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File size is 44274

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## Original Signature(s)

**Document No:** 331200

**Document description:** Main Document

**Original filename:** C:\Documents and Settings\Himself\My Documents\CLIENTS\Berry\Berry Deutschebank\Lenders Complaint First Amended1.pdf

**Electronic document Stamp:**

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**Document No:** 331200

**Document description:** Red Line Copy of First Amended Complaint

**Original filename:** C:\Documents and Settings\Himself\My Documents\CLIENTS\Berry\Berry Deutschebank\WordPerfect Document Compare SummaryOriginal document1.pdf

**Electronic document Stamp:**

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## Verified Signature(s)

**Document No:** 331200

**Document description:** Main Document

**Original filename:** C:\Documents and Settings\Himself\My Documents\CLIENTS\Berry\Berry Deutschebank\Lenders Complaint First Amended1.pdf

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**Document No:** 331200

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## The documents signatures are the same

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AO 440 (Rev. 8/01) Summons in a Civil Action

FILED IN THE  
UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAII

UNITED STATES DISTRICT COURT

District of Hawaii

AUG 16 2007  
at 9 o'clock and 43 min. M.  
SUE BEITIA, CLERK

WAYNE BERRY,

Plaintiff,

V.

SUMMONS IN A CIVIL ACTION

DEUTSCHE BANK TRUST  
COMPANY AMERICAS et al.,

CASE NUMBER: Civ. No. 07 CV-0172 SOM-LEK

TO: (Name and address of Defendant)

ALL NAMED DEFENDANTS

YOU ARE HEREBY SUMMONED and required to serve on PLAINTIFF'S ATTORNEY (name and address)

TIMOTHY J. HOGAN - HSBN 5312  
ATTORNEY AT LAW  
1050 Bishop Street, No. 433  
Honolulu, Hawaii 96813  
TEL (808) 382-3698  
FAX (808) 356-1682

an answer to the complaint which is served on you with this summons, within 20 days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

SUE BEITIA

CLERK

/s/ Erin Taniguchi

(By) DEPUTY CLERK

AUG 16 2007

DATE

AO 440 (Rev. 8/01) Summons in a Civil Action

<b>RETURN OF SERVICE</b>		
Service of the Summons and complaint was made by me <sup>(1)</sup>	DATE	
NAME OF SERVER ( <i>PRINT</i> )	TITLE	
<i>Check one box below to indicate appropriate method of service</i>		
<div style="margin-bottom: 10px;"> <input type="checkbox"/> Served personally upon the defendant. Place where served: </div> <div style="margin-bottom: 10px;"> <input type="checkbox"/> Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.  Name of person with whom the summons and complaint were left: </div> <div style="margin-bottom: 10px;"> <input type="checkbox"/> Returned unexecuted: </div> <div> <input type="checkbox"/> Other (specify):  Service upon registered agent. </div>		
<b>STATEMENT OF SERVICE FEES</b>		
TRAVEL	SERVICES	TOTAL \$0.00
<b>DECLARATION OF SERVER</b>		
<p>I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.</p> <div style="display: flex; justify-content: space-between;"> <div style="width: 30%;"> Executed on _____  Date </div> <div style="width: 60%;"> _____  <i>Signature of Server</i> </div> </div> <div style="text-align: center; margin-top: 20px;"> _____  <i>Address of Server</i> </div>		

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.